

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**ARcare, Inc., an Arkansas Corporation,
on behalf of itself and all others
similarly situated**

Plaintiff,

v.

**Alere, Inc.; and Alere Home
Monitoring, Inc.**

Defendant.

**Case No.: 1:16-CV-12093-RGS
CLASS ACTION**

PLAINTIFF’S NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE

Plaintiff ARcare, Inc (“Plaintiff”), by and through counsel, hereby voluntarily dismisses this action without prejudice under Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure for the reasons discussed below.

Plaintiff is an Arkansas resident, and has received unsolicited facsimiles from Defendant Alere, Inc. (“Defendant Alere”) and Defendant Alere Home Monitoring, Inc. (“Defendant AHM”) at its offices in Arkansas. To avoid jurisdictional disputes and proceed more directly to the merits of this action, Plaintiff filed this action in federal court in the district in which Defendant Alere has its principal place of business. Defendants have responded by challenging this court’s Article III jurisdiction over the action. Rather than respond to or oppose Defendants’ unequivocal position that this action cannot proceed in an Article III federal court, Plaintiff voluntarily dismiss this action pursuant FRCP 41(a)(1)(A)(i).

This notice is issued before Defendants have served either an answer or a motion for summary judgment. Accordingly, pursuant to FRCP 41(a)(1)(A)(i), Plaintiff hereby voluntarily dismisses this action without prejudice and without an order from this Court.

DATED: February 2, 2017

Respectfully submitted,

By: /s/ Randall K. Pulliam
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CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2017, I caused a copy of the foregoing to be electronically filed with the Clerk of Court using CM/ECF, which will send electronic notification to the parties and registered attorneys of record that the document has been filed and is available for viewing and downloading.

/s/ Randall K. Pulliam